



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making**Agency:** Department of Ecology AO#13-03

- ☒ **Preproposal Statement of Inquiry was filed as WSR 13-12-032 ; or**
☐ **Expedited Rule Making--Proposed notice was filed as WSR _____ ; or**
☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

- ☒ **Original Notice**
☐ **Supplemental Notice to WSR _____**
☐ **Continuance of WSR _____**

Title of rule and other identifying information:

Ecology is proposing a new rule, Chapter 173-485 WAC Petroleum Refinery Greenhouse Gas Emission Requirements.

Hearing location(s):

Date: January 22, 2014

Time: 10:00 a.m.

Location: Department of Ecology Northwest Regional Office
3190 – 160th Ave SE
Bellevue, WA 98008**Directions:**http://www.ecy.wa.gov/images/offices/map_nwro.pdf**Submit written comments to:**

Name: Margo Thompson

Address: PO Box 47600, Olympia, WA 98504-7600

e-mail AQComments@ECY.WA.GOV

fax (360)407-7534 by 1/31/2014

Assistance for persons with disabilities:

Contact Margo Thompson at 360-407-6827 by 1/15/2014.

For special accommodations or documents in alternate format,
call 360-407-6800, 711 (relay service), or 877-833-6341 (TTY)**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

This rule making proposal is to establish reasonably available control technology (RACT) to limit greenhouse gas (GHG) emissions from petroleum refineries in Washington State.

Reasons supporting proposal:

See attachment A.

Statutory authority for adoption: Chapter 70.94 RCW provides sufficient authority to adopt rule changes.**Statute being implemented:** Chapter 70.94 RCW**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

This rule was developed under a federal court order in Washington Environmental Council v. Sturdevant, 834 F.Supp.2d 1209 (W.D. Wash. 2011).

DATE

12/15/13

NAME (type or print)

Polly Zehm

SIGNATURE**TITLE**

Deputy Director, Department of Ecology

CODE REVISER USE ONLYOFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**DATE: December 18, 2013****TIME: 11:33 AM****WSR 14-01-115**

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

This rule proposal was developed under court order. In Washington Environmental Council v. Sturdevant, the US District Court for the Western District of Washington decided that state rules in Washington's State Implementation Plan (SIP) require Ecology to establish RACT for petroleum refinery greenhouse gas (GHG) emissions. Because the RACT analysis and determination affects three or more refineries, state statute requires Ecology to establish the new standards in rule. The Order on Remedies issued on March 27, 2012 established a schedule to implement the judge's decision. The Order on Remedies requires the rule to be effective by May 27, 2014.

Name of proponent: (person or organization) Washington State Department of Ecology

- ☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Margo Thompson	Department of Ecology, Lacey, Washington	360-407-1617
Implementation.....	Mark Buford Steve VanSlyke	Northwest Clean Air Agency, Bellingham, Washington Puget Sound Clean Air Agency, Seattle, Washington	360-428-6810 206-689-4052
Enforcement	Mark Buford Steve VanSlyke	Northwest Clean Air Agency, Bellingham, Washington Puget Sound Clean Air Agency, Seattle, Washington	360-428-6810 206-689-4052

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

☒ Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Margo Thompson

Address: PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6827

fax (360)407-7534

e-mail margo.thompson@ecy.wa.gov

☐ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☒ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Margo Thompson

Address: PO Box 47600

Olympia, WA 98504-7600

phone (360) 407-6827

fax (360)407-7534

e-mail margo.thompson@ecy.wa.gov

☐ No: Please explain:

Attachment A – Reasons supporting proposal

This rule proposal was developed under court order. In 2011, a federal district court decided that state regulations in Washington's federally approved Air Quality State Implementation Plan require us to establish RACT for petroleum refinery GHG emissions. In 2012, the district court issued an order requiring the Agencies to make this RACT determination by May 2014. Because the new standards affect three or more refineries, state law requires Ecology to establish the new standards in a rule. Although the Ninth Circuit Court of Appeals has stayed the 2012 order, the 2011 court case is in appeal process and has not yet been finally resolved. Until there is resolution, Ecology is proceeding with this rule making process.

The proposed rule provides facilities with the flexibility necessary to meet the requirement and recognizes the actions of those refineries that may already implement the required efficiency measures. Ecology proposes that the five Washington petroleum refineries meet GHG RACT requirements using one of two options. They are:

1. Energy efficiency standard

- A refinery may demonstrate reasonably available energy efficiency performance by scoring in the top 50th percentile of similar sized US refineries.
- Implementing agencies will use the Solomon EII[®] scoring system for the refineries as the benchmark demonstration of an investment in energy efficiency measures at the facility. This means if a facility is among the top 50% of US similar-sized refineries according to the Solomon EII[®] score, the facility has demonstrated compliance with GHG RACT.

2. Emission reduction requirement

- A refinery that does not meet the energy efficiency standard must implement GHG emission reduction projects. These projects must achieve GHG emission reductions that cumulatively add up to 10% of the refinery's baseline-year GHG emissions. Those reductions are allowed to occur over approximately a 10-year period, or
- The refinery implements emission reduction and efficiency projects that allow it to meet the energy efficiency standard.